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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130710606-4491-01]

RIN 0648-BD48

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch

Management in the Gulf of Alaska Non-Pollock Trawl Fisheries; Amendment 97

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 97 would limit Chinook salmon prohibited species catch (PSC) in Western and Central Gulf of Alaska (GOA) non-pollock trawl catcher/processor (C/P) and catcher vessel (CV) fisheries. This action would establish separate annual Chinook salmon PSC limits for trawl catcher/processors (Trawl C/P Sector), trawl catcher vessels participating in the Central GOA Rockfish Program (Rockfish Program CV Sector), and trawl catcher vessels not participating in the Central GOA Rockfish Program (Non-Rockfish Program CV Sector) fishing for groundfish species other than pollock. If a sector reaches its Chinook salmon PSC limit, NMFS would prohibit further fishing for non-pollock groundfish by vessels in that sector. This action also would establish and clarify Chinook salmon retention and discard requirements for vessels, shoreside processors, and

stationary floating processors participating in both the GOA pollock and non-pollock groundfish trawl fisheries. This action is necessary to minimize the catch of Chinook salmon to the extent practicable in the GOA non-pollock trawl fisheries. Amendment 97 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0077, by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0077](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0077), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will

accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, Analysis) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. An electronic copy of the Biological Opinion on the effects of the Alaska groundfish fisheries on Endangered Species Act (ESA)-listed species is available at <http://alaskafisheries.noaa.gov/protectedresources/stellers/plb/default.htm>.

Written comments regarding the approved collection-of-information requirements referenced in this proposed rule may be submitted to NMFS at the above address and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285. All currently approved NOAA collections of information may be viewed at [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7228

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the U.S. exclusive economic zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 97 for review by the Secretary of Commerce, and a notice of availability of the FMP amendment was published in the Federal Register on June 5, 2014 (79 FR 32525), with written comments on the FMP amendment invited through August 4, 2014. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendment, this proposed rule, or both, will be considered in the approval/disapproval decision for Amendment 97 and addressed in the response to comments in the final decision.

The following sections of the preamble describe: (1) general management of groundfish and PSC in the GOA; (2) the management areas and groundfish fisheries affected by this proposed action—the non-pollock trawl fisheries in the Central and Western GOA; (3) the non-pollock trawl fisheries in the Central and Western GOA and the three sectors active in those fisheries—the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors; (4) Chinook salmon PSC use in the non-pollock trawl fisheries; (5) the history and goals of this proposed rule—limiting Chinook salmon PSC in the non-pollock trawl fisheries in the Central and Western GOA; and (6) provisions of the proposed action that would establish limits on the maximum amount of Chinook salmon PSC permitted to be taken on an annual basis by the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors and requirements necessary to account for and adequately sample Chinook salmon PSC.

#### General Management of Groundfish and PSC Limits in the GOA

The FMP and its implementing regulations at § 679.20(c) require that the Council recommend and NMFS specify an overfishing level (OFL), an acceptable biological

catch (ABC), and a total allowable catch (TAC) for each stock or stock complex (i.e., each species or species group) of groundfish on an annual basis. The OFL is the level above which overfishing is occurring for a species or species group. The ABC is the level of a species or species group's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC is set below the OFL. The TAC is the annual catch target for a species or species group, derived from the ABC by considering social and economic factors and management uncertainty. The TAC must be set lower than or equal to the ABC.

The OFLs, ABCs, and TACs for GOA groundfish are specified through the annual harvest specification process. A detailed description of the annual harvest specification process is provided in the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014) and is briefly summarized here. The Council's Scientific and Statistical Committee (SSC) establishes the OFL and ABC for each species or species group. Based on the ABC established for each species or species group, the Council recommends a TAC. The TAC for some species and species groups are subject to further allocation on a seasonal basis and allocation among vessels using specific types of gear and vessel categories in the GOA (see regulations at § 679.20(a)).

To ensure that OFLs, ABCs, and TACs are not exceeded, NMFS requires that vessel operators participating in groundfish fisheries in the GOA comply with a range of monitoring requirements and restrictions. NMFS uses a range of area, time, gear, and operation-specific fishery closures to maintain catch within specified TACs and associated sector and seasonal allocations. NMFS closes directed fisheries when a TAC

is reached, and restricts fishing in other fisheries that may incidentally take a species or species group approaching its OFL. Regulations at §§ 679.20(d)(1), (d)(2), and (d)(3) describe the range of management measures that NMFS uses to maintain total catch at or below the OFL, ABC, and TAC for a species or species group.

In addition to these measures to limit total catch of groundfish species, the Council and NMFS have adopted various measures intended to control the catch of species taken incidentally in groundfish fisheries. Certain species are designated as “prohibited species catch” (PSC) in the FMP because they are the target of other, fully utilized domestic fisheries. The FMP and regulations at § 679.21 require that catch of PSC must be avoided while fishing for groundfish, and when incidentally caught, these PSC species must be immediately returned to the sea with a minimum of injury. The PSC species include Pacific halibut, Pacific herring, Pacific salmon, steelhead trout, king crab, and Tanner crab.

PSC must not be sold or kept for personal use and are required to be discarded (see regulations at § 679.21), or retained but not sold under the Prohibited Species Donation (PSD) Program (see regulations at § 679.26). In an effort to minimize waste of salmon incidentally caught and killed, NMFS established the PSD Program for the donation of incidentally caught salmon. The PSD Program reduces the amount of edible protein discarded under PSC regulatory requirements (see regulations at § 679.21). The PSD Program allows permitted participants to retain salmon for distribution to economically disadvantaged individuals through tax-exempt hunger relief organizations.

The Council has recommended, and NMFS has implemented, measures to 1) close groundfish fishing in areas with a high occurrence of prohibited species, or where

there is a relatively high level of PSC; 2) require the use of gear specifically modified to minimize PSC; and 3) establish PSC limits in specific Alaska groundfish fisheries in the GOA.

One of the prohibited species of greatest concern to the Council and NMFS is Chinook salmon. Chinook salmon is a prohibited species in the groundfish fisheries because of its value in salmon fisheries. Chinook salmon is a culturally and economically valuable species that is fully allocated and for which State and Federal managers seek to conservatively manage harvests. The Council and NMFS have established a range of management measures to constrain the impact of groundfish fisheries in the Bering Sea/Aleutian Islands Management Area (BSAI) and the GOA on Chinook salmon. A summary of these measures for the GOA is provided in Section 1.5 of the Analysis.

#### Management Areas and Fisheries Affected by This Proposed Action

This proposed rule would apply to Federally-permitted vessels fishing in the Central and Western Reporting Areas of the GOA (referred to in the remainder of the preamble as either the Western and Central GOA or the Central and Western GOA). The Western and Central Reporting Areas, defined at § 679.2 and shown in Figure 3 to 50 CFR part 679, consist of the Central and Western Regulatory Areas in the EEZ (Statistical Areas 610, 620, and 630) and the adjacent State of Alaska (State) waters. The EEZ includes Federal waters that generally occur from 3 nautical miles (nm) to 200 nm from shore. State waters generally occur from shore to 3 nm from shore. The specific boundaries between State and Federal waters are provided on the NMFS Alaska Region website at [http://alaskafisheries.noaa.gov/maps/reporting\\_areas/index.pdf](http://alaskafisheries.noaa.gov/maps/reporting_areas/index.pdf).

This proposed rule would not apply to Federally-permitted vessels fishing in the Eastern Reporting Area of the GOA, which consists of Statistical Areas 640, 649, 650, and 659 in the EEZ and the adjacent State waters. Although all species of Pacific salmon are taken incidentally in the groundfish fisheries within the GOA, the Eastern Reporting Area is not included because it contains a large area (Statistical Area 650) closed to fishing with trawl gear, and Chinook salmon PSC in the Eastern Reporting Area accounts for less than 2 percent of total GOA Chinook salmon PSC (see Section 1.2 of the Analysis for additional detail).

This proposed rule would apply Chinook salmon PSC limits to owners and operators of trawl vessels that are directed fishing for groundfish species other than pollock (non-pollock trawl vessels) in the Central and Western GOA. Directed fishing is defined at § 679.2. Vessels that are directed fishing for pollock in the Central and Western GOA are subject to management under a separate Chinook salmon PSC limit defined at § 679.21(h) and would not be affected by this proposed action, with the exception of a proposed clarification to the current salmon retention requirements explained later in this preamble.

This proposed action would apply to Federally-permitted trawl vessels fishing for non-pollock groundfish that are managed under TAC limits in Federal waters and under the State's parallel groundfish fisheries in State waters. Parallel groundfish fisheries are fisheries that occur in State waters where the catch of groundfish is debited from the TAC. Parallel groundfish fisheries are opened and closed by the State concurrently with adjacent Federal fisheries. Parallel fisheries are managed by the State under rules similar to those that apply in the Federal fisheries. The parallel fisheries that would be affected



by this action include the GOA State parallel trawl fisheries for groundfish species, other than pollock, that occur in State waters in the Central and Western GOA. Additional detail on State parallel fisheries is provided in Section 4.5.1 of the Analysis.

This proposed rule would not apply to non-pollock trawl vessels fishing in a State-managed guideline harvest level (GHL) groundfish fishery in the Western or Central GOA should such a fishery be authorized by the State. Currently, GHL non-pollock trawl fisheries are not authorized by the State in the Central or Western GOA. As general background, GHL fisheries are established and managed by the State for harvest exclusively within State waters and catch occurring in a GHL fishery is not deducted from the TAC. Additional detail on State GHL fishery management is provided in Section 4.5.1 of the Analysis.

This proposed action would not apply to non-trawl fisheries (i.e., fisheries using pot, hook-and-line or jig gear). The purpose and need for this action is to address Chinook salmon PSC that is known to occur in trawl fisheries. The Council and NMFS could consider subsequent action to limit Chinook salmon PSC in non-trawl fisheries through subsequent action if such action were determined to be warranted.

#### Non-Pollock Trawl Fisheries in the Central and Western GOA

The non-pollock trawl fisheries in the Western and Central GOA include fisheries for sablefish, several rockfish species, arrowtooth flounder, Pacific cod, shallow water flatfish, rex sole, flathead sole, deep-water flatfish, and other groundfish, except pollock. Many of the non-pollock trawl fisheries are multi-species fisheries, in which vessels catch and retain multiple groundfish species in a single fishing trip. Additional detail on the species and amounts harvested in the non-pollock trawl fisheries in the Western and

Central GOA are provided in Sections 3.2 and 4.4 of the Analysis and in the final 2014 and 2015 harvest specifications for the GOA groundfish fisheries (79 FR 12890, March 6, 2014).

Participants in the Western and Central GOA non-pollock trawl fisheries include C/Ps and CVs. In developing Amendment 97, the Council decided to group these vessels into three sectors which are described in greater detail in the following sections of this preamble: (1) the Trawl C/P Sector; (2) the Rockfish Program CV Sector; and (3) the Non-Rockfish Program CV Sector.

#### Trawl C/P Sector

Trawl C/Ps in the Central and Western GOA participate in a range of non-pollock groundfish fisheries. Trawl C/Ps primarily fish for rockfish (i.e., dusky rockfish, northern rockfish, and Pacific ocean perch) and sablefish in the Central and Western GOA, and arrowtooth flounder, deep-water flatfish, flathead sole, and rex sole in the Central GOA. Trawl C/Ps occasionally fish for arrowtooth flounder and shallow water flatfish in the Central and Western GOA. Trawl C/Ps do not fish for Pacific cod in the Central or Western GOA. Section 4.4 of the Analysis describes the harvesting activities by trawl C/Ps in greater detail.

Harvests of non-pollock groundfish by trawl C/Ps in the Central and Western GOA are governed primarily by two management programs, the Amendment 80 Program and the Central GOA Rockfish Program. All of the vessels that would be within the Trawl C/P Sector under this proposed rule are subject to management under the Amendment 80 Program. Most of the vessels that would be within the Trawl C/P Sector under this proposed rule also are subject to management under the Central GOA Rockfish

Program. The relevant provisions of the Amendment 80 Program and the Central GOA Rockfish Program are briefly described in the following paragraphs.

In June 2006, the Council adopted Amendment 80 to the BSAI Fishery Management Plan, which was implemented by NMFS in 2008. The suite of management measures that implement Amendment 80 is commonly known as the Amendment 80 Program. The key provisions of Amendment 80 relevant for this proposed action are briefly described here; additional detail is available in the final rule implementing the Amendment 80 Program (72 FR 52668, September 14, 2007).

The Amendment 80 Program is intended primarily to improve retention and utilization of fishery resources; encourage fishing practices with lower discard rates; and improve the opportunity for increasing the value of harvested species while lowering operational costs for groundfish fishing in the BSAI. The Amendment 80 Program accomplishes these goals by encouraging the formation of cooperatives and the development of cooperative fishing practices among all persons who are issued Amendment 80 quota share permits. Amendment 80 cooperatives are eligible to receive cooperative quota, which represents an exclusive harvest privilege for a portion of the TAC for each Amendment 80 species annually. The allocation of an exclusive harvest privilege to a person for a specific portion of the TAC is more commonly known as a catch share. Trawl C/Ps within an Amendment 80 cooperative cannot exceed the amount of cooperative quota allocated to their Amendment 80 cooperative (see regulations at § 679.7(n)). Participants who form cooperatives in the Amendment 80 Program are able to receive a catch share in the BSAI and are not engaged in a “race for fish” that can occur in fisheries that are not subject to catch share management. This allows participants

within an Amendment 80 cooperative to make operational choices to improve fishery returns, reduce bycatch, and reduce fish discards. However, the allocation of catch shares could allow Amendment 80 cooperative participants to expand into fisheries not managed under a catch share program. Specifically, many of the trawl C/Ps eligible under the Amendment 80 Program are also active in groundfish fisheries in the GOA that are not subject to catch share management.

To address the potential expansion of fishing effort into the GOA that could result from the implementation of catch share management in the BSAI, the Amendment 80 Program limits the ability of trawl C/Ps managed under the Amendment 80 Program to expand their harvest efforts in the GOA. These limitations are commonly known as “sideboards” because they constrain harvests in specific fisheries. The Amendment 80 Program established GOA groundfish and halibut PSC sideboard limits for Amendment 80 Program participants.

Regulations at § 679.92 establish groundfish harvesting sideboard limits on all vessels eligible for the Amendment 80 program, other than the F/V Golden Fleece, for pollock and Pacific cod in the Western and Central GOA, and Pacific ocean perch, dusky rockfish, and northern rockfish in the Western GOA. Regulations at § 679.92(b)(2) establish halibut PSC sideboard limits in the Central and Western GOA for vessels eligible under the Amendment 80 Program other than the F/V Golden Fleece. Halibut PSC sideboards establish the maximum amount of halibut PSC that may be taken while Amendment 80 trawl C/Ps are fishing for groundfish in the GOA. Halibut PSC sideboard limits are allocated by fishery complexes and seasons as described in Table 31 to part 679.

In addition to these groundfish and halibut PSC sideboard limits, other limitations apply to trawl C/Ps eligible for the Amendment 80 Program. Regulations in Table 39 to 50 CFR part 679 allow only specific trawl C/Ps eligible under the Amendment 80 Program to conduct directed fishing for flatfish in the GOA. Regulations at § 679.92(d) prohibit one vessel in the Amendment 80 Program, the F/V Golden Fleece, from directed fishing for pollock, Pacific cod, Pacific ocean perch, dusky rockfish, and northern rockfish in the Central and Western GOA, effectively limiting that vessel to the flatfish fisheries in the Central and Western GOA. These specific sideboard measures were established for the F/V Golden Fleece in recognition of the unique catch patterns of the F/V Golden Fleece described in detail in the final rule implementing the Amendment 80 Program (72 FR 52668, September 14, 2007).

Because the trawl C/Ps operating in the Central and Western GOA are subject to the sideboard limits imposed by the Amendment 80 Program, the vessel operators have established voluntary cooperative relationships to ensure that sideboard limits are not exceeded. These voluntary arrangements have resulted in improved communication and coordination among trawl C/P operators in the GOA.

In addition to the Amendment 80 Program, some trawl C/Ps that would be within the Trawl C/P Sector under this proposed rule are eligible to participate in the Central GOA Rockfish Program (76 FR 81248, December 27, 2011). The Central GOA Rockfish Program was first implemented in 2007 and had a five-year duration ending on December 31, 2011 (71 FR 67210, November 20, 2006). Prior to the expiration of the Central GOA Rockfish Program, the Council revised and renewed the Central GOA Rockfish Program (76 FR 81248, December 27, 2011). Additional detail on the Central GOA Rockfish

Program is provided in the final rule implementing the program (76 FR 81248, December 27, 2011) and relevant provisions are briefly summarized here.

The Central GOA Rockfish Program, like the Amendment 80 Program, allocates catch shares. The Central GOA Rockfish Program provides catch shares to eligible trawl C/Ps for Central GOA dusky rockfish, northern rockfish, Pacific ocean perch, rougheye rockfish, shortraker rockfish, and sablefish. The Central GOA Rockfish Program also limits the amount of halibut PSC that may be used by eligible trawl C/Ps. As with the Amendment 80 Program, trawl C/Ps that are active in the Central GOA Rockfish Program can receive a catch share allocation only if they participate in a cooperative. Trawl C/Ps cannot exceed their cooperative's Central GOA Rockfish Program catch share allocations (see regulations at § 679.7(o)). In addition to this catch share allocation, trawl C/Ps that are eligible for the Central GOA Rockfish Program are subject to sideboard limits that constrain their ability to expand effort into other fisheries in the GOA that are not subject to catch share management. The Central GOA Rockfish Program establishes sideboard limits on the types of groundfish fisheries, the amount of Central and Western GOA groundfish, and the amount of halibut PSC that may be harvested by trawl C/Ps eligible for the Central GOA Rockfish Program (see regulations at § 679.82). These provisions have resulted in coordination among those participants active in the Central GOA Rockfish Program and who would be within the Trawl C/P Sector under this proposed rule.

The management measures implemented under the Amendment 80 Program and the Central GOA Rockfish Program have resulted in uniform management of trawl C/P vessels in the Central and Western GOA. This uniform management has also resulted in

similar harvest patterns, and coordination among fishery participants. Sections 4.4.2 and 4.4.11 of the Analysis describe the fishing dynamics within the Trawl C/P Sector in greater detail.

This proposed rule would not apply to trawl C/Ps that are managed under authority of the American Fisheries Act (AFA). Regulations implementing the AFA prohibit AFA trawl C/Ps from harvesting any species of groundfish in the GOA (see regulations at § 679.7(k)(1)(ii)). Therefore, they would not be subject to the provisions of this proposed action.

#### Rockfish Program CV Sector

Trawl CVs in the Central and Western GOA participate in a range of non-pollock groundfish fisheries. Trawl CVs primarily fish for Pacific cod in the Central and Western GOA. Trawl CVs also fish for rockfish (i.e., dusky rockfish, northern rockfish, and Pacific ocean perch) and sablefish in the Central and Western GOA, and arrowtooth flounder, flathead sole, and shallow water flatfish in the Central GOA. Trawl CVs rarely fish for other flatfish species in the Central GOA. Trawl CVs do not fish for flatfish or rockfish in the Western GOA. Section 4.4.2.2 of the Analysis describes the harvesting activities by trawl CVs in greater detail.

There is a distinct division in the management of trawl CVs that separates trawl CVs participating in the Central GOA Rockfish Program from trawl CVs that are not participating in the Central GOA Rockfish Program. Trawl CVs participating in the Central GOA Rockfish Program are subject to catch share management; trawl CVs participating in fisheries other than the Central GOA Rockfish Program are not. These conditions create two distinct management regimes that fundamentally affect the way

vessels within each sector fish for non-pollock groundfish and avoid PSC. Therefore, this proposed action recognizes trawl CVs that are participating in the Central GOA Rockfish Program (Rockfish Program CVs) as a sector that is separate and distinct from trawl CVs that are not participating in the Central GOA Rockfish Program (Non-Rockfish Program CVs).

The Central GOA Rockfish Program provides catch shares to eligible trawl CVs for Central GOA dusky rockfish, northern rockfish, Pacific Ocean perch, Pacific cod, rougheye rockfish, and sablefish. The Central GOA Rockfish Program also limits the amount of halibut PSC that may be used by eligible trawl CVs. Rockfish Program CVs can receive a catch share allocation only if they participate in a cooperative. Rockfish Program cooperatives cannot exceed the amount of their Central GOA Rockfish Program catch share allocations (see regulations at § 679.7(o)). Rockfish Program CVs are subject to sideboard limits that constrain the ability of Rockfish Program CVs from expanding their fishing effort into other fisheries in the GOA not subject to catch share management (see regulations at § 679.82(d)).

In the Central GOA, directed rockfish fishing is permitted from May 1 to December 31, with the majority of groundfish harvested in May and June. In 2012, thirty-five trawl CVs in the GOA were fishing under the authority of a Rockfish Program Cooperative Quota (CQ) permit out of a total of 62 trawl CVs that were active in the Central GOA groundfish fisheries. Rockfish Program CVs can “check in” to fish under the authority of a Central GOA Rockfish Program CQ Permit, and “check out” to fish in other fisheries in the GOA (see regulations at § 679.5(r)(8)). When Rockfish Program CVs are checked in, they are fishing under the authority of a Rockfish Program CQ



Permit and their harvest is limited to the cooperative's catch share allocations. However, the catch share allocations are limiting only when trawl CVs are checked in and fishing under the authority of a Rockfish Program CQ Permit. Conversely, sideboard limitations applicable to eligible Rockfish Program CVs apply during a portion of the year to Rockfish Program CVs that are checked out of the Central GOA Rockfish Program (see regulations at § 679.82(d)). The net effect of these provisions is that when trawl CVs are "checked in" and fishing under the authority of a Rockfish Program CQ Permit, they are participating in a cooperative catch share management program, and when they are "checked out," they no longer have an exclusive harvest privilege and must compete or "race" with other CVs in harvesting the fish. These conditions indicated to the Council that it would be appropriate to apply separate Chinook salmon PSC limits for trawl CV vessels when "checked in" and operating under the authority of a Rockfish Program CQ Permit and for trawl CV vessels not operating under the authority of a Rockfish Program CQ Permit (see the "Provisions of the Proposed Action" Section of this preamble for additional detail). Section 4.4.2 of the Analysis describes the fishing dynamics within the Rockfish Program CV Sector in greater detail.

#### Non-Rockfish Program CV Sector

CVs that are not eligible to participate in the Central GOA Rockfish Program or that are not "checked in" and fishing under the authority of a Rockfish Program CQ Permit would be in the Non-Rockfish Program CV Sector. This sector fishes primarily for Pacific cod in the Central and Western GOA, arrowtooth flounder, flathead sole, and shallow water flatfish in the Central GOA, and rockfish in the Eastern GOA (an area not subject to the provisions of this proposed action). As noted earlier, some trawl CVs do

not participate in the Rockfish Program at any time during a year, while some participate in the Central GOA Rockfish Program for part of the year, and then participate in other Central or Western GOA non-pollock fisheries that are outside of the Central GOA Rockfish Program. The participants who would be within the Non-Rockfish Program CV Sector under this proposed rule participate in fisheries that are not subject to catch share management and are less likely to be able to coordinate fishing operations in comparison with participants who are subject to catch share management, such as those in the Trawl C/P and Rockfish CV Program Sectors. Section 4.4.2 of the Analysis describes the fishing dynamics within the Non-Rockfish Program CV Sector in greater detail.

#### Chinook Salmon PSC in the Non-Pollock Trawl Fisheries

Information is currently unavailable for NMFS to assess the specific proportion of individual stocks of Chinook salmon that are incidentally caught in the GOA non-pollock trawl fisheries. Coded wire tag recoveries and genetic analysis of Chinook salmon caught in the GOA non-pollock trawl fisheries show that Chinook salmon stocks originate from Oregon, Washington, British Columbia, and Alaska. Current regulations do not facilitate stock of origin analysis of Chinook salmon incidentally caught in the Western or Central GOA non-pollock trawl fisheries. Section 4.7.2 of the Analysis concludes that it is not possible at this time to estimate how Chinook salmon removals by trawl fisheries impact the proportion of Chinook salmon forgone by other users or impact Chinook salmon escapement.

Regulations require participants in the non-pollock trawl fisheries to avoid Chinook salmon when possible and return them to the water immediately with a minimum of injury after observer sampling. However, salmon caught incidentally in

trawl nets often die as a result of trauma incurred during capture. It can be difficult for non-pollock trawl vessels to avoid Chinook salmon PSC because Chinook salmon and non-pollock groundfish occur in the same locations in the Western and Central GOA.

Although non-pollock trawl fisheries incidentally take Chinook salmon, the pollock directed fishery in the Western and Central GOA typically takes the majority of Chinook salmon PSC in the GOA groundfish fisheries (see Section 4.4 of the Analysis for additional detail on total Chinook salmon PSC use). In 2012, NMFS issued a final rule to implement Amendment 93 to the FMP (77 FR 42629, July 20, 2012).

Amendment 93 established separate Chinook salmon PSC limits in the Western and Central GOA for the pollock directed fishery. These limits require NMFS to close the pollock directed fishery in the Western or Central GOA if the applicable limit is reached (see regulations at § 679.21(h)(6)). The annual Chinook salmon PSC limits in the pollock directed fishery of 6,684 salmon in the Western GOA and 18,316 salmon in the Central GOA are set in regulation at § 679.21(h)(2)(i) and (h)(2)(ii). In addition, all salmon (regardless of species) taken in the pollock directed fishery in the Western and Central GOA must be retained until an observer at the processing facility that receives delivery of the catch is provided an opportunity to count the number of salmon and to collect any scientific data or biological samples from the salmon (see regulations at § 679.21(h)(4)).

There are currently no specific management measures to limit Chinook salmon PSC in the GOA non-pollock trawl fisheries. From 1997 through 2013 (a broad range of years encompassing reliable historic estimates and the most recent available data), the non-pollock trawl fisheries accounted for approximately 27 percent of the total trawl

fishery Chinook salmon PSC in the Western and Central GOA groundfish fisheries. The pollock trawl fisheries accounted for the remainder of the Chinook salmon PSC.

Chinook salmon PSC for the non-pollock trawl fisheries averaged 5,770 salmon annually from 1997 through 2013, with a maximum annual PSC of 10,877 in 2003 and a minimum annual PSC of 2,739 in 1998.

Chinook salmon PSC for GOA non-pollock trawl fisheries varies by year and among the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors. Table 1 provides the average, the minimum, and the maximum amount of Chinook salmon PSC for all three sectors. Table 1 provides this information since the implementation of the Central GOA Rockfish Program in 2007, the first year that all three sectors could be defined, through 2013, the most recent year for which data are available. Section 4.4 of the Analysis provides additional detail on the distribution of Chinook salmon PSC.

Table 1: Total, Average, Maximum, and Minimum Chinook Salmon PSC in the Trawl C/P, Rockfish CV, and Non-Rockfish CV Sectors from 2007 through 2013

Sector	Average	Maximum	Minimum
Trawl C/P	3,143	4,631	1,890
Rockfish CV	903	1,649	368
Non-Rockfish CV	2,526	4,531	857
Total (All three sectors)	5,979	9,748	3,664

#### History and Goals of this Proposed Rule

In December 2010, the Council initiated two sequential amendments to address GOA Chinook salmon PSC. The first amendment addressed Chinook salmon PSC in the GOA pollock fisheries through the implementation of a PSC limit for those target fisheries in the Western and Central GOA. At the same time, a longer-term amendment package was initiated to address comprehensive Chinook salmon PSC management in GOA non-pollock trawl fisheries.

In June 2011, the Council took final action on the first amendment, Amendment 93 to the GOA Groundfish FMP, which established an overall PSC limit of 25,000 Chinook salmon for the Central and Western GOA pollock fisheries. The Central GOA annual PSC limit was set at 18,316 Chinook salmon, and the Western GOA PSC limit was set at 6,684 Chinook salmon. Also, the Council required full retention of all salmon taken in the pollock trawl fishery, in order to allow NMFS to implement a robust sampling protocol for Chinook salmon, and allow for genetic stock identification of Chinook salmon taken as PSC. The final rule to implement Amendment 93 became effective on August 25, 2012 (77 FR 42629).

In February 2012, the Council reviewed a discussion paper on the second amendment to consider and evaluate a range of alternatives for Chinook salmon PSC limits in the GOA non-pollock trawl fisheries, and other alternatives for controlling and sampling Chinook salmon PSC in GOA trawl fisheries. In June 2013, the Council took final action on the Chinook salmon PSC limits for the non-pollock trawl fishery by selecting a long-term average annual PSC limit that would be divided between CVs and C/Ps, an incentive buffer for trawl C/Ps and Non-Rockfish Program CVs, separate

Chinook PSC apportionments for the Rockfish Program CV sector and the Non-Rockfish Program CV sector, and salmon retention requirements.

In June 2013, the Council initiated review of an additional PSC measure to examine whether or not the June 2013 recommendation on Chinook salmon PSC in the GOA non-pollock trawl fishery could be modified to include an inseason reallocation of Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector. The Council recommended an inseason reallocation on December 2013. The measures adopted by the Council at its June and December meetings comprise Amendment 97 and are described in detail in the analysis and in the following section of this proposed rule.

The goals of this proposed action are consistent with the 10 National Standards established under the Magnuson-Stevens Act. The proposed action addresses the MSA National Standards and would balance a number of competing objectives for fishery conservation and management. These include National Standard 1, National Standard 8, and National Standard 9. The Council and NMFS recognize the need to balance and be consistent with both National Standard 1 and National Standard 9. National Standard 9 requires that conservation and management measures shall, to the extent practicable, minimize bycatch. National Standard 1 requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. The ability to harvest the entire TAC for each groundfish fishery in any given year may not be the single factor, or the most important factor, in determining whether the GOA groundfish fishery achieves optimum yield. Providing the opportunity for the fleet to harvest its TAC is one aspect of

achieving optimum yield in the long term. National Standard 8 requires considering the importance of fishery resources to fishing communities and minimizing adverse economic impacts on such communities. This action would provide maximum benefit to fishermen and communities that depend on Chinook salmon and groundfish resources, and comply with the Magnuson-Stevens Act and other applicable federal law. National Standard 9 emphasizes the need to minimize bycatch in the non-pollock trawl fisheries in the Central and Western GOA to the extent practicable. The action would be practicable because it does not over constrain harvest of available TACs in the non-pollock trawl fisheries. By minimizing Chinook salmon bycatch, this action would maintain a healthy marine ecosystem for the long-term conservation and abundance of Chinook salmon.

In determining whether to impose a Chinook salmon PSC limit for the non-pollock trawl fisheries, the Council and NMFS considered the importance of equity among user groups in this proposed action. In addition to providing an equitable allocation of the total GOA-wide PSC limit between the Western and Central GOA non-pollock trawl fisheries, the Council and NMFS also considered the needs of Chinook salmon users. The Chinook salmon resource is of value to many stakeholders, including but not limited to commercial, recreational, and subsistence user groups, and it is a resource that is currently fully utilized. By instituting a PSC limit that would prevent harvest of Chinook salmon in excess of that limit, thereby reducing Chinook salmon bycatch in years of high abundance, the Council and NMFS also are considering the needs of these other user groups in recommending this proposed action.

The Council and NMFS determined that the imposition of a Chinook salmon PSC limit for the non-pollock trawl fisheries in the Western and Central GOA would achieve

three broad goals, that are addressed in the Purpose and Need and in the Council's problem statement (see Analysis Section 1.1), and discussed below. The first goal is to avoid exceeding the annual Chinook salmon threshold of 40,000 Chinook salmon that was identified in the incidental take statement accompanying the November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on ESA-listed salmon of the Pacific Northwest (see Chapter 5) (see ADDRESSES). Management of the GOA groundfish fisheries should prevent Chinook salmon bycatch from exceeding the incidental take statement. Establishing a limit on the amount of Chinook salmon PSC that may be taken on an annual basis in the non-pollock trawl fisheries in the Central and Western GOA would accomplish that goal. This proposed action would, on average, limit the annual Chinook salmon PSC in the non-pollock trawl fisheries to 7,500 salmon each year. This would provide great assurance that the total Chinook salmon PSC in the GOA from all sources would not exceed 40,000 salmon on an annual basis. The second goal is to minimize Chinook salmon bycatch to the extent practicable, consistent with the MSA and National Standard 9. Under Amendment 93 to the FMP, NMFS implemented regulations to limit the annual Chinook salmon PSC in the Central and Western GOA pollock fishery to 25,000 Chinook salmon (77 FR 42629, July 20, 2012). Limits on Chinook salmon PSC in the non-pollock trawl fisheries would complement those regulations, and further the second goal of conservation of Chinook salmon resources that occur in the GOA regardless of the stock of origin. The implementation of Chinook salmon PSC limits for non-pollock trawl fisheries would prevent unusually high levels of PSC of Chinook salmon from occurring in the non-pollock trawl fisheries in the future, such as occurred in 2003 and 2010 (see Section 4.4 of the Analysis for additional



information on annual Chinook salmon PSC use in the non-pollock trawl fisheries). Consistent with National Standard 9, Chinook salmon PSC limits that would be implemented by this program include incentives that in some years, may reduce Chinook salmon PSC to levels below the proposed limits, thereby minimizing bycatch to the extent practicable. The third broad goal is to establish monitoring measures that would aid NMFS in proper accounting of Chinook salmon PSC and improve sampling of Chinook salmon so that stock of origin of Chinook salmon PSC could be determined. This would be accomplished by revising retention requirements for all salmon PSC, regardless of species, to enable accurate reporting, ensure adequate accounting of Chinook salmon PSC, and obtain information that could help define the stock of origin of Chinook salmon bycatch, thereby improving the understanding of the potential impact of Chinook salmon PSC on Chinook salmon resources and fisheries.

#### Provisions of the Proposed Action

In order to achieve the goals identified by the Council, this proposed action would: (1) establish annual Chinook salmon PSC limits for the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors; (2) establish an “incentive buffer” that would allow the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish Program CV Sectors to vary depending on the amount of Chinook salmon PSC taken by those sectors in the previous year; (3) establish a seasonal limit on the amount of Chinook salmon PSC that could be taken in the Trawl C/P Sector prior to June 1 of each year; (4) allow the reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year; and (5) establish salmon retention requirements to ensure

adequate accounting of Chinook salmon PSC, and to improve the collection of biological samples that could aid in the determination of stock of origin of Chinook salmon PSC in the non-pollock trawl fisheries. A description of and rationale for these proposed measures are provided in the following paragraphs.

#### Chinook Salmon PSC Limits

This proposed rule would implement a long-term average annual Chinook salmon PSC limit of 7,500 Chinook salmon for non-pollock trawl fisheries in the Central and Western GOA. The proposed rule would implement the long-term average annual limit by establishing three separate Chinook salmon PSC limits for the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors. During the first year of implementation, this proposed rule would establish an annual Chinook salmon PSC limit of 3,600 Chinook salmon for the Trawl C/P Sector, 1,200 Chinook salmon for the Rockfish Program CV Sector, and 2,700 Chinook salmon for the Non-Rockfish Program CV Sector. The total Chinook salmon PSC limit in the first year of implementation for all three sectors would be 7,500 Chinook salmon. Under the proposed action, if a sector reaches, or is projected to reach, its Chinook salmon PSC limit, NMFS would close directed fishing for all non-pollock trawl fisheries for vessels in that sector for the remainder of the calendar year. Each sector would be subject to its own annual Chinook salmon PSC limit, and NMFS would manage each sector separately.

The Council recommended the proposed long-term average annual limit after considering a range of PSC limits to minimize Chinook salmon bycatch to the extent practicable while preserving the potential for the full harvest of non-pollock groundfish TACs. The Council's selection of this long-term average limit also reflects the trade-offs

between Chinook salmon saved and the forgone non-pollock catch for the range of PSC limits. Section 4.4.9 of the Analysis shows that Western and Central GOA non-pollock trawl fisheries averaged approximately 6,000 Chinook salmon per year between 2003 and 2011, but that actual annual PSC varies widely (a high of 10,877 in 2003 and a low of 3,060 in 2006). According to the Analysis (section 2.5), the non-pollock trawl fisheries would have been constrained in two out of nine years between 2003 and 2011 if the proposed Chinook salmon PSC limit of 7,500 had been in place, but these closures would have resulted in 40% less Chinook salmon PSC being taken in these fisheries (see the Analysis, Table 4-69).

The Council considered alternatives that would have established a Chinook salmon PSC limit of 5,000, 10,000 and 12,500 in the non-pollock trawl fishery in the Central and Western GOA. The Council and NMFS recognize that the Chinook salmon PSC limit of 7,500 proposed in this action could constrain groundfish harvests and impose costs on non-pollock trawl fishery participants (see Section 4.9 of the Analysis). However, based on a review of past fishery performance provided in Sections 4.7 and 4.9 of the Analysis, the Council determined and NMFS agrees that a Chinook salmon PSC limit less than 7,500 would result in considerable amounts of foregone harvest in the non-pollock trawl fisheries, and relatively high costs (in terms of foregone revenue) per salmon saved. A Chinook salmon PSC limit lower than 7,500 would be expected to impose greater costs and burdens on participants in the non-pollock trawl fisheries in future years by constraining fishing to a greater degree than the PSC limit proposed in this action. Using the 2003 to 2011 period, the non-pollock trawl fisheries would have been constrained in six of these years under a 5,000 Chinook salmon PSC limit. Given

the considerable costs per salmon saved at PSC limits less than 7,500 and the uncertainty over the added benefits to individual Chinook stocks with such limits, the Council determined and NMFS agrees that a Chinook salmon PSC limit lower than 7,500 would burden fishery participants to a greater extent than the proposed limit, and is not considered practicable for minimizing Chinook salmon bycatch because it would be unnecessarily constraining to the non-pollock fisheries. The Analysis at section 2.5 also shows that non-pollock trawl fisheries would have been constrained in only one year between 2003 and 2011 with an average annual PSC limit equal to or greater than 10,000 Chinook salmon. While a PSC limit of 10,000 Chinook salmon would have resulted in approximately 17 percent less Chinook salmon PSC using the 2003 to 2011 time period, the Council determined, and NMFS agrees, that a 17 percent savings of Chinook salmon PSC (approximately 1,000 Chinook salmon) was inadequate savings of Chinook salmon considering the importance of salmon to target fisheries and conservation needs and would not minimize Chinook salmon bycatch to the extent practicable.

After selecting the long-term average annual Chinook salmon PSC limit of 7,500, the Council recommended that the average annual PSC limit be implemented by establishing separate Chinook salmon PSC limits for the Trawl C/P, the Rockfish Program CV, and the Non-Rockfish Program CV sectors. The Council and NMFS recommend allocating Chinook salmon PSC to the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors in recognition of the specific groundfish fisheries, and patterns of Chinook salmon PSC use by these sectors as described in the “Non-Pollock Trawl Fisheries in the Central and Western GOA” and “Chinook Salmon PSC in the Non-Pollock Trawl Fisheries” sections of this preamble and detailed in

Section 4.4 of the Analysis. As explained earlier in this preamble and in the Analysis, each of these three sectors participates in different groundfish fisheries, and is subject to different management measures that allow these three sectors to respond differently to the Chinook salmon PSC limits being proposed in this action. The following description provides the rationale for the specific Chinook salmon PSC limits selected and the potential effects based on a review of historic and recent trends of groundfish harvests and Chinook salmon PSC use. In determining the specific Chinook salmon PSC limit that each sector would receive, the Council recommended that the average annual PSC limit be apportioned between the catcher processor fleet (i.e., the Trawl C/P Sector) and the catcher vessel fleet (i.e., the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector combined) based on each fleet's five-year historic average percentage of Chinook salmon bycatch. From 2007 to 2011, the catcher processor fleet's average use of Chinook salmon represented 48% of the total average use of Chinook salmon bycatch in the non-pollock trawl fisheries. During this same period, the catcher vessel fleet's average use of Chinook salmon represented 52 percent of the total average use of Chinook salmon bycatch in the non-pollock trawl fisheries. Applying these percentages to the PSC limit of 7,500, the Council recommended a Chinook salmon PSC limit of 3,600 Chinook salmon for the catcher processor fleet (i.e. the Trawl C/P Sector) and a Chinook salmon PSC limit of 3,900 Chinook salmon for the catcher vessel fleet (i.e. the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector combined). The Council determined, and NMFS agrees, that the five-year historic average best captures the time period that is most reflective of the current management regime in the non-pollock trawl fisheries of the Western and Central GOA. The period

encompasses the time in which the Central GOA Rockfish Program and Amendment 80 were implemented.

The Council determined and NMFS agrees that the 3,600 Chinook salmon PSC limit for the Trawl C/P Sector is appropriate because the sector's groundfish harvests are tightly constrained by sideboard measures, informal cooperative arrangements that exist within the Trawl C/P Sector can provide the necessary communication for avoiding Chinook salmon PSC, and regulations applicable to trawl C/Ps operating in the Central GOA Rockfish Program allow those trawl C/Ps to better coordinate activities and take actions to reduce Chinook salmon PSC. Collectively, these conditions are expected to minimize the sector's Chinook salmon PSC to the extent practicable while providing an opportunity to harvest groundfish in the GOA. The proposed Chinook salmon PSC limit of 3,600 salmon is approximately 14 percent greater than the average amount of Chinook salmon PSC that has been used in Trawl C/P Sector (3,105 salmon) from 2007 (the first year that the Central GOA Rockfish Program) through 2011 (the most recent year for which complete data was available at the time the Council took final action on Amendment 97). Based on a review provided in Section 4.4 of the Analysis, the proposed 3,600 Chinook salmon PSC limit would have been constraining in one out of five years during the 2007 through 2011 period analyzed. The 3,600 Chinook salmon PSC limit also would be slightly higher than the sector's average Chinook salmon PSC use (3,143 salmon) from 2007, the first year that all three sectors could be defined, through 2013, the most recent year for which data are available (see Table 1 of this preamble). The Council and NMFS anticipate that, given the existing management structure of the Trawl C/P Sector and the ability of the Trawl C/P Sector to coordinate

fishing activities in the GOA, the Trawl C/P Sector is likely to be able to harvest non-pollock groundfish in the Central and Western GOA in most years without being constrained by the Chinook salmon PSC limit of 3,600 salmon.

After recommending a Chinook salmon PSC limit of 3,900 for the catcher vessel fleet (i.e., the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector combined), the Council then determined that this PSC limit should be further apportioned and recommended that 1,200 Chinook salmon be apportioned to the Rockfish Program CV Sector and the remainder (2,700 Chinook salmon) be apportioned to the Non-Rockfish Program CV Sector. The Council recognized that vessels within the Non-Rockfish Program CV Sector could have unpredictable high PSC events during the spring, prior to the May opening of the Central GOA Rockfish Program, which could preclude or severely curtail the Central GOA Rockfish Program's season, thereby eliminating an opportunity to prosecute a valuable fishery in which the prospects for effective PSC avoidance are promising. The Council determined, and NMFS agrees, that a separate Chinook salmon PSC limit for the Rockfish Program CV Sector is appropriate because a separate allocation would preserve important and valuable fishing opportunities in the Rockfish Program. In determining the Chinook salmon PSC limit for the Rockfish Program CV Sector, the Council considered the sector's annual average Chinook salmon PSC from 2007 through 2011 of approximately 800 Chinook salmon per year, as well as annual Chinook salmon PSC, which exceeded 1,200 Chinook salmon in one year (2008) during this period. The Council determined, and NMFS agrees, that a Chinook salmon PSC limit of 1,200 for the Rockfish Program CV Sector is appropriate because (1) it should provide the greatest assurance that the Central GOA Rockfish Program quota can

be fully harvested given the sector's average annual use, (2) the sector is managed through cooperatives that have additional tools available to aid in mitigating Chinook salmon PSC encounters, and (3) the one year in which the sector's PSC use exceeded the proposed limit, cooperative fishing under the Central GOA Rockfish Program was new and management priorities emphasized halibut avoidance. The Chinook salmon PSC limit of 1,200 salmon is approximately 29 percent greater than the average amount of Chinook salmon PSC that has been used in Rockfish Program CV Sector (847 salmon) during a representative five-year period analyzed by the Council and NMFS from 2007 through 2011. Based on a review provided in Sections 4.7 and 4.9 of the Analysis, the 1,200 Chinook salmon PSC limit would have been constraining in one out of five years during the 2007 through 2011 period analyzed. The 1,200 Chinook salmon PSC limit is also greater than the sector's average Chinook salmon PSC use (903 salmon) from 2007 through 2013 (see Table 1 of this preamble). The Council and NMFS anticipate that given the existing management structure of the Rockfish Program CV Sector, the sector is likely to be able to harvest groundfish fisheries in the Central and Western GOA in most years without being constrained by the Chinook salmon PSC limit of 1,200 salmon. The Council also determined, and NMFS agrees, that the apportionment to the sector is appropriate because although the allocation is larger than the sector's average annual use, the sector has an incentive to minimize its use of Chinook salmon PSC. This proposed action also includes a provision that would allow NMFS to reallocate unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year as described later in this preamble. This provision would ensure that unused amounts of the Chinook salmon PSC limit



allocated to the Rockfish Program CV Sector would be made available to catcher vessels that may still be fishing in the Non-Rockfish Program CV Sector towards the end of the fishing year. On average, 87 percent of the CVs that are active in the Rockfish Program CV Sector participate in the Non-Rockfish Program CV Sector for fall non-pollock trawl fisheries. Therefore, the Council determined and NMFS agrees that participants in the Rockfish Program CV Sector would have ample incentive to minimize Chinook salmon PSC within that sector in order to maximize the amount of Chinook salmon PSC available to prosecute important fall fisheries, such as fall Pacific cod and flatfish fisheries.

The Rockfish Program CV Sector Chinook salmon PSC limit would apply to trawl catcher vessels that are checked in and fishing under the authority of a Rockfish Program CQ Permit (see regulations at § 679.5(r)(8)). Trawl catcher vessels that are not checked in and fishing under the authority of a Rockfish Program CQ Permit would be in the Non-Rockfish Program CV Sector. Under the proposed action, a trawl CV vessel could operate in both the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector during the course of a fishing year, but would only be in one or the other sector at any given time during a fishing year depending on whether the vessel was checked in and fishing under the authority of a Rockfish Program CQ Permit.

The proposed Chinook salmon PSC limit for the Rockfish Program CV Sector would not be further allocated among the specific cooperatives within the sector. The Council did not recommend that the 1,200 Chinook salmon PSC limit be further apportioned among fishery cooperatives in the Rockfish Program CV Sector because allocating the Chinook salmon PSC limit among cooperatives would result in relatively

small allocations among the cooperatives that could unnecessarily constrain non-pollock harvests by the cooperatives. Chinook salmon PSC varies from year to year and that variability could limit the ability of a cooperative to predict and undertake fishing operations in a way that could ensure the cooperative would maintain catch below its Chinook salmon PSC limit. A cooperative-specific Chinook salmon PSC limit would be expected to increase the administrative burden and costs to establish cooperative-specific allocations, particularly if cooperative-specific Chinook salmon PSC limits could be traded among cooperatives. The Council determined and NMFS agrees that inter-cooperative arrangements that exist among the Rockfish Program CV Sector would be able to provide coordination and communication among participants, reduce the risk that a specific cooperative would be constrained within the overall Rockfish Program CV Sector, and would not impose the additional burdens and costs associated with cooperative-specific Chinook salmon PSC limits. Sections 4.7.1 and 4.9 of the Analysis provide additional detail on the allocation of the Chinook salmon PSC limit to the Rockfish Program CV Sector.

The Council and NMFS recommend the 2,700 Chinook salmon PSC limit for the Non-Rockfish Program CV Sector to accommodate groundfish harvests in most years. Unlike the Trawl C/P and Rockfish Program CV Sectors, the Non-Rockfish Program CV Sector is not circumscribed by sideboard regulations, governed by informal cooperative arrangements, or managed under a catch share program that allows the sector to optimize the use of its Chinook salmon PSC as it participates in non-pollock trawl fisheries. The Council considered these factors when establishing the proposed Chinook salmon PSC limit. The proposed Chinook salmon PSC limit of 2,700 salmon is approximately 8

percent greater than the average amount of Chinook salmon PSC that has been used in Non-Rockfish Program CV Sector (2,489 salmon) during a representative five-year period analyzed by the Council and NMFS from 2007 through 2011. Based on a review provided in Sections 4.7 and 4.9 of the Analysis, the 2,700 Chinook salmon PSC limit would have been constraining in two out of five years during the 2007 through 2011 period analyzed. The proposed 2,700 Chinook salmon PSC limit is also slightly greater than the sector's average Chinook salmon PSC use (2,562 salmon) from 2007 through 2013 (see Table 1 of this preamble). This proposed action also includes a provision that would allow NMFS to reallocate unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year as described later in this preamble. This provision would be likely to provide additional Chinook salmon PSC to the Non-Rockfish Program CV Sector in most years (see Section 4.9 of the Analysis for additional detail).

As previously discussed, the Council considered establishing Chinook salmon PSC limits that would have provided a single Chinook salmon PSC limit for all non-pollock trawl fisheries, as well as a single Chinook salmon PSC limit for trawl C/Ps and trawl CVs participating in the Central GOA Rockfish Program. The Council considered alternatives for Chinook salmon PSC limits for each of the three sectors that would, on average, result in Chinook salmon PSC limits ranging from 5,000 salmon to 12,500 salmon annually in the Central and Western GOA. The Council considered a range of methods for defining and allocating the Chinook PSC between the three sectors using average Chinook salmon PSC use by each sector over five-year and ten-year periods.

Finally, the Council considered alternatives to allocate separate Central GOA and Western GOA Chinook salmon PSC limits for each sector.

The Council considered but did not select alternatives that would have assigned a single Chinook salmon PSC limit to all fisheries because such an allocation would not recognize the distinct operational differences, and differing patterns of Chinook salmon PSC use, among the three sectors active in the GOA (see Section 4.7 of the Analysis for additional detail). The Council determined that such an allocation method would have reduced the incentives for a specific sector to maintain Chinook salmon PSC use within its historic limits. This could result in one sector engaging in fishing patterns that lead to relatively high Chinook salmon PSC which in turn could result in the closure of non-pollock fisheries to all vessels, including those vessels that have relatively low Chinook salmon PSC rates. Such a result would have adverse effects on fishing operations disproportionate to their actual Chinook salmon PSC use. Additionally, the Council did not select alternatives that would have assigned a single Chinook salmon PSC limit to the trawl CV and trawl C/P vessels participating in the Central GOA Rockfish Program. The Council determined that such an allocation did not appear to be consistent with the operations of trawl C/P vessels and the stated desire by representatives of trawl C/P vessels to establish a single Chinook salmon PSC limit applicable to all trawl C/Ps.

As previously discussed, the Council considered but did not select Chinook salmon PSC limits that that would have established Chinook salmon PSC limits greater than 7,500 salmon (10,000 and 12,500 salmon) in the non-pollock trawl fisheries of the Central and Western GOA. The Council reviewed these limits and determined that although they would establish Chinook salmon PSC limits and constrain total Chinook

salmon PSC, they would not have minimized bycatch of Chinook salmon to the extent practicable. The Council determined and NMFS agrees that Chinook salmon PSC limits higher than 7,500 would result in a greater potential for increased use of Chinook salmon PSC. The Council and NMFS consider the proposed Chinook salmon PSC limit of 7,500 to appropriately balance the goals of minimizing bycatch to the extent practicable while providing harvest opportunities among the sectors. The Council and NMFS reached these conclusions based on a review of the historic and recent trends in Chinook salmon PSC use, the ability of the Trawl C/P and Rockfish Program CV Sectors to use their existing management structure and cooperative arrangements to further minimize bycatch, and incentive provisions contained within this proposed action would provide additional harvest flexibility to the Trawl C/P and to a greater extent, the Non-Rockfish Program CV Sector.

Finally, the Council also considered but did not select alternatives to allocate separate Central GOA and Western GOA Chinook salmon PSC limits for each sector. As noted in Section 4.7 of the Analysis, allocating Chinook salmon PSC separately to the Western and Central GOA, or by sector within the Central and Western GOA, would have been likely to create small allocations that would have been limiting to the non-pollock trawl fishery in more years given the highly variable nature of Chinook salmon PSC rates and use between the Central and Western GOA. The Council determined that these small, and likely restrictive allocations would have constrained fishing operations, without necessarily resulting in practicable minimization of Chinook salmon bycatch. These small restrictions also would be challenging for NMFS to adequately monitor and

administer to ensure that these relatively small Chinook salmon PSC limits could not be exceeded.

#### Incentive Buffer

This proposed rule would allow the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish Program CV Sectors to vary depending on the amount of Chinook salmon PSC taken by those sectors in the previous year. This proposed provision is termed an “incentive buffer” because it would provide an incentive for participants in the Trawl C/P and Non-Rockfish Program CV Sectors to minimize PSC below their allocations, 3,600 and 2,700 Chinook salmon respectively, each year in order to receive additional Chinook salmon PSC in the following year. It is important to note that the proposed incentive buffer would not result in the total available Chinook salmon PSC limit in the non-pollock trawl fisheries to exceed 7,500 salmon over the long term annual average.

Under the proposed incentive buffer, a sector that uses less than or equal to its proportional share of 6,500 Chinook salmon in one year would be able to access its base PSC limit plus its proportional share of 1,000 additional Chinook salmon in the following year. To illustrate, the proposed base Chinook salmon PSC limit for the Trawl C/P Sector is 3,600 (48 percent of the average annual Chinook salmon PSC limit of 7,500) and this limit would be available to the Trawl C/P Sector during the first year of Amendment 97 if approved. If, during the first year, the Trawl C/P Sector was able to maintain its use of Chinook salmon PSC to no more than 3,120 salmon (48 percent of 6,500 Chinook salmon), the incentive buffer would apply to the sector in the following year. In the following year, the Trawl C/P Sector would receive a Chinook salmon PSC

limit of 4,080 Chinook salmon, which represents the sum of the sector's base PSC limit (3,600) and its proportional share (48 percent) of 1,000 (480). If, during the first year, the Trawl C/P Sector's Chinook salmon use exceeds 3,120 Chinook salmon, then the incentive buffer would not apply to the sector and its Chinook salmon PSC limit in the following year would be set at its base PSC limit of 3,600 Chinook salmon. Similarly, the proposed base PSC limit for the Non-Rockfish Program CV Sector is 2,700 (36 percent of the proposed Chinook salmon limit of 7,500) and this limit would be available to the Non-Rockfish Program CV Sector during the first year of Amendment 97 if approved. If, during the first year, the Non-Rockfish Program CV Sector was able to maintain its use of Chinook salmon PSC to no more than 2,340 salmon (36 percent of 6,500 Chinook salmon), the incentive buffer would apply to the sector in the following year. In the following year, the Non-Rockfish Program CV Sector would receive a Chinook salmon PSC limit of 3,060 salmon, which represents the sum of the sector's base PSC limit (2,700) and its proportional share (36 percent) of 1,000 (360). If, during the first year, the Non-Rockfish Program CV Sector's Chinook salmon use exceeds 2,340 Chinook salmon, then the incentive buffer would not apply to the sector and its Chinook salmon PSC limit in the following year would be set at its base PSC limit of 2,700 salmon.

The Council believes and NMFS agrees that this mechanism would act as an incentive for these sectors to keep Chinook salmon bycatch well below each sector's base PSC limit in most years, in order to provide each sector with a slightly higher Chinook salmon PSC limit that may be needed in an unusual year of Chinook salmon migration patterns or unanticipated higher abundance that may make it difficult to avoid Chinook

salmon PSC. The specific buffers selected would provide approximately 12 percent more Chinook salmon PSC for the Trawl C/P and Non-Rockfish Program CV Sectors in a year if the Chinook salmon use for that sector was maintained at an amount approximately 12 percent below the Chinook salmon PSC limits initially established for those sectors. The amount of the proposed incentive buffer is intended to provide some additional flexibility, but not so large an increase in a sector's Chinook salmon PSC limit from year-to-year as to result in highly variable or substantial increases in Chinook salmon PSC.

This proposed action would not apply an incentive buffer to the Rockfish Program CV Sector. As noted in the previous section of this preamble, the Chinook Salmon PSC limit for the Rockfish Program CV Sector is thought to be sufficient to support the Rockfish Program CV Sector in most years. In addition, any unused Chinook salmon PSC from the Rockfish Program CV Sector would be reallocated to the Non-Rockfish Program CV Sector in the fall of each year as described later in this preamble.

Establishing an incentive buffer for the Rockfish Program CV Sector and allowing a reallocation of unused Chinook salmon PSC would be administratively burdensome and was determined by the Council and NMFS as unnecessary to provide flexibility to the Rockfish Program CV Sector (see Section 4.9 of the Analysis for additional detail).

#### Seasonal Allocation of the Chinook Salmon PSC Limit for Trawl Catcher/Processors

This proposed rule would establish a seasonal limit on the maximum amount of Chinook salmon PSC that could be used by the Trawl C/P Sector prior to June 1 of each year. Each year, the Trawl C/P Sector would be limited to using no more than 66 percent of its annual Chinook salmon PSC limit prior to June 1. If NMFS determined that the Trawl C/P Sector's seasonal Chinook PSC limit would not be exceeded, no action would



be necessary. If, prior to June 1, NMFS determines that the Trawl C/P Sector would catch the seasonal allocation of the sector's Chinook salmon PSC limit prior to June 1, NMFS would prohibit directed fishing for non-pollock fisheries by the Trawl C/P Sector until June 1. NMFS would determine the amount of the sector's annual limit that remains available for use and directed fishing for non-pollock fisheries would be open for the Trawl C/P Sector on June 1, provided there is adequate Chinook salmon PSC to allow the Trawl C/P Sector to fish and not exceed its annual Chinook salmon PSC limit. No additional notice to re-open the groundfish fishery for non-pollock trawl C/Ps would be necessary, because proposed regulations at § 679.21(i)(3)(ii) state the date (June 1), that defines the end and start of the Trawl C/P Sector's seasonal Chinook PSC limits.

NMFS, as part of the implementation of this action, would establish Chinook salmon PSC accounts for the non-pollock trawl groundfish fishery in the NMFS regional catch accounting system (CAS). NMFS also would develop publically-available reports about the catch of Chinook in the non-pollock groundfish fishery (at <http://alaskafisheries.noaa.gov>), including annual PSC limits, current catch, and remaining limits. These reports, which would be an extension of existing NMFS reports about current and historic groundfish and PSC catch in the GOA, would include a Chinook PSC category for the non-pollock Trawl C/P Sector as defined at § 679.21(i)(2)(ii). The agency would add the residual January 1 to June 1 Chinook salmon PSC limit to the June 1 to December 31 Chinook salmon PSC limit. This information would be publically available from the non-pollock Chinook PSC limit report.

Because the seasonal limit would be set at 66 percent of the annual Chinook salmon PSC limit, the specific amount could vary depending on whether or not the Trawl

C/P Sector receives an incentive buffer for a year. During the first year of implementation, the Trawl C/P Sector would be allocated a seasonal Chinook salmon PSC limit of 2,376 Chinook salmon for use prior to June 1 (i.e., 66 percent of the 3,600 Chinook salmon PSC annual limit). During the second year, the seasonal Chinook salmon PSC limit for the Trawl C/P Sector prior to June 1 would be set at 2,376 Chinook salmon if the Trawl C/P Sector did not receive the incentive buffer, or would be set at 2,693 Chinook salmon (i.e., 66 percent of the 4,080 Chinook salmon PSC annual limit) if the sector received the incentive buffer.

This proposed action would establish a seasonal allocation to the Trawl C/P Sector to reduce the potential for a disproportionate amount of the Chinook salmon PSC limit being used early in the year which could result in non-pollock harvest restrictions to Trawl C/P Sector participants later in the year. Section 4.7.1 of the Analysis contains data showing that the Trawl C/P Sector typically uses approximately 70 percent of its Chinook salmon PSC before June 1. The Council determined and NMFS agrees that the proposed 66 percent allocation prior to June 1 is an appropriate limitation to allow the Trawl C/P Sector to prosecute non-pollock trawl fisheries consistent with historic use of Chinook salmon PSC, while also ensuring that some portion of the PSC is available to support other non-pollock trawl fisheries, specifically the rockfish fisheries that typically are harvested after June 1. Many of the vessels in the Trawl C/P Sector participate in Central GOA Rockfish Program fisheries that open on May 1 of each year. However, trawl C/Ps fishing in the Central GOA Rockfish Program typically start to fish after June 1. The Council and NMFS propose June 1 as the end date of the seasonal allocation to ensure that sufficient Chinook salmon PSC will be left for the Trawl C/P Sector to

participate in the Central GOA Rockfish Program, as well as to support other non-pollock trawl fisheries occurring later in the year. The Council and NMFS also considered recommendations provided to the Council from participants in the Trawl C/P Sector that a seasonal limit of Chinook salmon PSC would help ensure that participants in the Trawl C/P Sector monitor catch early in the year to ensure adequate Chinook salmon PSC remains later in the year. The Council considered but did not select a PSC limit for the trawl C/Ps of 50 percent of the annual limit, choosing the higher percentage based on supportive testimony of the trawl C/P representatives for applying 66 percent of the annual PSC limit. Additionally, the proposed seasonal apportionment would exceed the Trawl C/P Sector's annual average use of Chinook salmon PSC prior to June 1 by the Trawl C/P Sector from 2008 to 2012 of 2,057 Chinook salmon. NMFS determined that the annual average of 2,376 Chinook salmon or 66 percent of the annual PSC limit, represents a compromise between providing the long-term average catch for the Trawl C/P Sector of 71% or 2,564 fish.

The Council and NMFS considered but did not select alternatives that would have established seasonal allocations to the Rockfish Program CV and Non-Rockfish Program CV Sectors. These alternatives were not selected because Section 4.7.1 of the Analysis indicates that the Rockfish Program CV and Non-Rockfish Program CV Sectors typically have a more even distribution of Chinook salmon PSC use throughout the year. Therefore, the Council determined and NMFS agrees that it would not be necessary to constrain Chinook salmon PSC early in the year to ensure adequate Chinook salmon PSC remains later in the year.

Reallocation of Unused Chinook Salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector

As noted earlier in this preamble, it is likely that the proposed Chinook salmon PSC limit for the Rockfish Program CV Sector would not constrain the sector's non-pollock harvests in most years. In contrast, the proposed Chinook salmon PSC limit of 2,700 for the Non-Rockfish Program CV Sector would have constrained the sector's non-pollock harvests during three of the seven years between 2007 and 2013 (see Table 1 and Section 4.7.1 in the Analysis) had the proposed PSC limit been in place. This proposed action would provide the opportunity for reallocations of unused Chinook salmon PSC to the Non-Rockfish Program CV Sector at two periods during the year. Under this proposed action, NMFS would reallocate all but 150 of the salmon that remain of the unused Chinook salmon PSC limit in the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1. Depending on the amount reallocated, the additional Chinook salmon could allow Non-Rockfish Program CVs to continue fishing for an extended period of time if the Non-Rockfish Program CV Sector would have otherwise been constrained by its Chinook salmon PSC limit of 2,700 Chinook salmon. The Council selected this alternative to provide additional Chinook salmon PSC to address unanticipated events of high PSC encounters, for which the Non-Rockfish Program CVs would generally be unable to mitigate before reaching their PSC limit. The Non-Rockfish Program CV Sector does not operate under authority of the Rockfish Program and is not as likely to be able to voluntarily control or organize fleet behavior to adjust fishing patterns for avoiding Chinook salmon PSC.

The Council selected October 1 for reallocating Chinook salmon PSC to the Non-Rockfish Program CV Sector because of the timing and the value of the Pacific cod fall season fishery to the Non-Rockfish Program CV Sector. In some years, the Non-Rockfish Program CV Sector has high Chinook salmon PSC prior to May 1, which would reduce the amount of Chinook salmon PSC limit available from September through November, when most CVs have checked out of the Rockfish Program CR fishery. Also, the Council determined that by establishing a fixed annual date to reallocate unused Chinook salmon PSC, participants in the Rockfish Program CV Sector would have certainty regarding the timing of each reallocation, and would be able to focus on more important coordination of cooperative measures such as avoidance of Chinook salmon PSC.

The Council and NMFS recommended retaining a balance of 150 Chinook salmon for the Rockfish Program CV Sector on October 1 after considering the catch of Chinook salmon by Rockfish Program CVs after October 1. Based on the first seven years of the Central GOA Rockfish Program (2007 through 2013), 150 Chinook salmon would have been sufficient to support the sector's activity from October 1 through November 15, the last date that fishing is permitted under the Central GOA Rockfish Program (see Section 4.9 of the Analysis for additional information). Although 150 Chinook salmon may be more than the sector would need in most years, the Council determined and NMFS agrees that changing trends in Chinook salmon PSC use or groundfish fishing patterns could increase the demand for Chinook salmon PSC in this sector. Additionally, while the number of Rockfish Program CVs operating after October 1 is usually small, managing that fishery with less than 150 Chinook salmon PSC could

close the sector. NMFS determined that the agency may be unable to open the directed fisheries for the Rockfish Program CV Sector if the post-reallocation Chinook salmon PSC for the Sector is set at less than 150 fish, particularly if the number of participating Rockfish Program CVs is uncertain or anticipated to increase beyond historical numbers.

This proposed rule would provide a final reallocation of any unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on November 15. The Central GOA Rockfish Program closes by regulation on November 15. This final reallocation could provide some additional harvest opportunity to the Non-Rockfish Program CV Sector, depending on the amount reallocated, from November 15 through the end of the year (December 31). Reallocations to the non-Rockfish Program CV Sector, would not change (add to or subtract from) the incentive buffers proposed at § 679.21(i)(3)(i)(A) and (i)(3)(i)(C). Section 4.9 of the Analysis provides additional detail on the reallocation of Chinook salmon PSC.

#### Salmon Retention and the Prohibited Species Donation Program

This proposed rule would establish salmon retention requirements for the non-pollock trawl sectors, and would establish and modify existing salmon retention requirements for shoreside processors and stationary floating processors (SFPs) receiving non-pollock and pollock deliveries. To implement these proposed provisions, trawl CVs and tender vessels, shoreside processors or SFPs, and trawl C/Ps would each be subject to different salmon retention requirements.

This proposed action would require the operators of all CVs (i.e., the Rockfish Program CV and Non-Rockfish Program CV Sectors) and tender vessels to retain all salmon caught in the non-pollock trawl fisheries in the Western and Central GOA until

those salmon are offloaded to a shoreside processor or SFP. This proposed action would also require shoreside processors and SFPs receiving non-pollock deliveries to retain all salmon until the number of salmon by species has been accurately recorded in the eLandings groundfish landing report. The combination of these two retention requirements will enable accurate reporting of salmon in eLandings at the processor. Salmon accounting at a processor may assist the industry in tracking and cooperatively managing its Chinook salmon PSC. At this time, observers are not available to collect data from salmon delivered with non-pollock groundfish to shoreside processors or SFPs. However, scientific data from salmon delivered with non-pollock groundfish to processors may be collected opportunistically for further study to assist with scientific research on the origin of salmon in the Western and Central GOA non-pollock trawl fisheries.

This proposed action would require the operators of vessels in the Trawl C/P Sector to retain all salmon until an observer has had the opportunity to collect scientific data or biological samples, and the number of salmon by species has been accurately recorded in the eLandings At-sea production report. This proposed requirement emphasizes the responsibility for an operator of a C/P to accommodate observer sampling tasks prior to discard. Data collected from observers onboard C/Ps would be used for stock of origin determinations (see Section 3.3.3 of the Analysis for additional detail on stock of origin sampling).

The salmon retention requirements in this proposed rule are intended to enable the collection of salmon genetic data in the non-pollock trawl fisheries and facilitate reporting of salmon bycatch at the processor. The proposed retention requirements for

salmon in the non-pollock trawl fisheries would not modify the observer duties or the method by which NMFS calculates fleet-wide Chinook salmon PSC estimates. NMFS would continue to calculate Chinook salmon PSC numbers, and would manage PSC limits for Chinook salmon, using the existing system of extrapolating catch rates from observed vessels to the unobserved portion of the non-pollock trawl fleet (see Section 5.2.2 of the Analysis for additional detail on determining Chinook salmon PSC use).

This proposed action would also amend regulations at § 679.21(h)(4) and (h)(5) governing salmon retention and discards for vessels directed fishing for pollock with trawl gear in the Western and Central GOA, and tender vessels, and processors taking deliveries from these vessels. The proposed changes are intended to clarify responsibilities and to avoid confusion, and to be consistent with the organization of salmon retention and discard regulations for the non-pollock trawl fisheries. The requirements for CVs and tender vessels in the pollock fishery are unchanged from the current retention requirements. Many of the CVs that participate in the non-pollock trawl fisheries also participate in the GOA directed pollock fishery. Current regulations at § 679.21(h)(4) combine requirements for vessel operators and processing operations. These combined requirements have caused some confusion for vessel operators delivering groundfish with regard to the responsibilities that apply to them versus the responsibilities that apply to shoreside processors and SFPs. Vessel operators are required only to deliver all salmon to a processor, however processors must accommodate provisions for observer sampling at the processing facility. Because NMFS has been informed by industry that these regulations are confusing, the proposed action would



separate the responsibilities for vessel operators and processors in the pollock trawl fisheries to provide greater clarity.

The proposed rule also would separate the requirement for a processor to retain salmon until an observer has the opportunity to count the number of salmon, from the requirement to retain salmon until the shoreside processor or SFP has recorded the number of salmon by species in the eLandings groundfish landing report. The proposed organization of the retention requirements would apply to vessels directed fishing for pollock with trawl gear in the Western and Central GOA, and the tender vessels and processors taking deliveries from these vessels.

Salmon retained under this proposed action could not be kept for sale or personal use, and must be discarded or donated to the PSD program. Once salmon are counted and sampled at the processing plant, they may be donated to the PSD program, or they must be discarded. A list of participants in the salmon PSD program in the GOA is available from the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov/ram/psd.htm>. Currently, the PSD program is available to participants in pollock and non-pollock groundfish fisheries. This proposed rule continues to provide the opportunity for non-pollock and pollock trawl fisheries to participate in the PSD program. See Section 2.3 of the Analysis for additional detail on the PSD program.

#### Implementation

The Council recommended that NMFS implement the proposed PSC limits by the start of the 2015 non-pollock trawl fishery (January 20, 2015). NMFS advised the Council that any new annual PSC accounting should be in place prior to January 20,

2015, for NMFS to apply annual catch accounting of Chinook salmon PSC to all sectors impacted by this action.

NMFS will publish the annual Chinook salmon PSC limits for the Non-Rockfish Program CV Sector, and Trawl C/P Sector in the proposed groundfish harvest specifications for the GOA after determining the amounts of Chinook salmon PSC used and whether the incentive buffer applies. If the incentive buffer thresholds for the Non-Rockfish Program CV or Trawl C/P Sectors at § 679.21(i)(3)(i)(A) and (i)(3)(i)(C) have been exceeded prior to publishing the proposed groundfish harvest specifications for the GOA, NMFS would propose the Chinook salmon PSC limits that will be available to each sector for the following year. If the incentive buffer thresholds have not been exceeded prior to publishing the proposed groundfish harvest specifications for the GOA, NMFS would propose Chinook salmon PSC limits of 3,600 or 4,080 for the Trawl C/P Sector, and 2,700 or 3,060 for the Non-Rockfish Program CV Sector and would establish the PSC limit for each sector in the final specifications.

#### Classification

Pursuant to sections 304(b) and 305(d) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 97, other provisions of the MSA, and other applicable law, subject to further consideration after the public comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act. The IRFA for this proposed

rule describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the proposed action, why it is being considered, and the legal basis for this action are contained earlier in this preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see ADDRESSES).

The entities directly regulated by this proposed action are those federally permitted or licensed entities that participate in harvesting groundfish from the Federal or State-managed parallel non-pollock trawl fisheries of the Western and Central GOA. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$19.0 million. The analysis identified 70 CVs and C/Ps in 2011 that would be directly regulated by this action, 18 of which are small entities (all CVs). All C/Ps are either large entities or are affiliated with at least one of the following fishing cooperatives, all of which are defined as large entities: the AFA C/P cooperative for Bering Sea pollock, a Rockfish Program C/P cooperative in the GOA, an Amendment 80 cooperative, or a Bering Sea crab cooperative.

Although this action would modify regulations that directly regulate CVs and processors that participate in harvesting and processing groundfish from the Federal or State-managed parallel pollock trawl fisheries of the Western and Central GOA, the actions proposed are minor clarifications of existing regulatory requirements, and do not impose new or additional requirements that have not previously been analyzed and considered in the FRFA prepared for measures that implemented those requirements (77 FR 42629, July 20, 2012).

Shoreside processors or SFPs receiving groundfish caught by GOA trawl vessels would be required to retain salmon until the manager has recorded the number of salmon by species in the eLandings groundfish landing report (§ 679.21(h)(4)(ii)(B) and § 679.21(i)(5)(iii)). Based on the number of FPPs listed in the GOA and the BSAI (the best available data for groundfish processors receiving deliveries from these fisheries), as many as 100 processors receiving landings from either pollock or non-pollock groundfish trips could be regulated by this proposed regulation. Of these 100 processors, only 64 are estimated to be small entities. The estimate of the number of small entities is based on published data on employment and affiliations of each company and the address of the processing plant listed in each FPP. The address, indicating if the processing plant is located in a community adjacent to the GOA, is used as a proxy for those processors that could receive deliveries of groundfish from GOA trawl fisheries. A seafood processor is considered to be a small entity if it has less than 500 employees; and that criteria was applied to the processors holding an FFP. This proposed amendment would have no effect or minimal effect on small processing entities, because it is clarifying existing reporting regulations for proper completion of the eLandings groundfish landing report.

An IRFA requires a description of any significant alternatives to the proposed action(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. The preferred alternative chosen by the Council and proposed by NMFS has several elements: (1) annual Chinook salmon PSC limits for the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors; (2) an incentive buffer that would allow the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish

Program CV Sectors to vary depending on the amount of Chinook salmon PSC taken in those fisheries in the previous year; (3) a seasonal limit on the amount of Chinook salmon PSC that could be taken in the Trawl C/P Sector prior to June 1 of each year; (4) the reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year; and (5) retention requirements to enable accurate reporting, ensure adequate catch accounting of Chinook salmon PSC, and to improve the collection of biological samples that could aid in the determination of stock of origin of Chinook salmon PSC in the non-pollock trawl fisheries.

During consideration of this action, the Council evaluated a number of alternatives to the preferred alternative, including: (1) no action; (2) a variety of different allocations of Chinook salmon PSC limits among the three sectors that were more and less restrictive than the alternative proposed in the this action; (3) PSC limits split between the Western and Central GOA; (4) no incentive buffer; (5) no reallocation between the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector; and (6) no change in retention and discard requirements for all sectors in the Western and Central GOA non-pollock trawl fisheries. None of these alternatives met both the objectives of the action, and had a smaller impact on small entities.

The no action alternative would not have limited the Chinook salmon PSC for the non-pollock trawl fisheries, which would have failed to meet the principal objective of the proposed action. The GOA-wide limits of 10,000 and 12,500 would likewise have failed to significantly control Chinook salmon PSC, and therefore failed to balance the benefits of the action to the targeted Chinook salmon fisheries with the needs of non-

pollock trawlers. The limit of 5,000 Chinook salmon would have imposed a greater burden on small entities by resulting in constraints on non-pollock trawl fishing beyond the preferred alternative. The Council recommended the preferred alternative because lower Chinook salmon PSC limits were unnecessarily constraining to the non-pollock trawl fisheries while larger Chinook salmon PSC limits did not provide the incentive to minimize Chinook salmon PSC to the extent practicable.

An alternative that would have assigned 51 percent of the total Chinook salmon PSC limit to trawl C/Ps and 49 percent to the trawl CVs was based on the 10-year historical use of PSC from these to operational types. This alternative was not selected because it did not reflect fishing conditions representative of the more recent 5-year historical period that included implementation of the Central GOA Rockfish Program, and the Amendment 80 Program. The alternative for lower Chinook salmon PSC limits to trawl CVs from applying the 10-year historical period of Chinook PSC (mostly small entities that operate in the Non-Rockfish Program CV Sector) would have caused a greater burden on directly regulated small entities than the preferred alternative. Dividing the Chinook salmon PSC limits between the Western GOA and Central GOA was rejected because this allocation method could result in small annual Chinook PSC limits that would be more likely to constrain fishing operations, and adversely affect directly regulated small entities more than the preferred alternative.

The Council and NMFS also considered not implementing an incentive buffer for the Trawl C/P and Non-Rockfish Program CV Sectors. The preferred alternative would provide an incentive buffer to directly regulated small entities in the Non-Rockfish Program CV Sector that would allow for the incentive buffer to apply to this sector's PSC

limit in the following year. Without the incentive buffer, these operations would not be able to benefit from a higher PSC limit in the following year, which would result in greater potential for adverse impacts on directly regulated small entities than the preferred alternative.

In addition to the no action alternative, the Council considered two alternatives for reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector for use in the Non-Rockfish Program CV sector. These alternatives include 1) reallocation of all of the unused Chinook salmon PSC limit except for a range of 104 through 208 salmon by October 1; and 2) reallocating all unused Chinook salmon PSC limit remaining for the Rockfish Program CV Sector when the Central GOA Rockfish Program closes by regulation on November 15. The preferred alternative is a combination of reallocation alternatives that would allow a reallocation of all but 150 of the Chinook salmon PSC limit from the Rockfish Program CV Sector by October 1, and the remaining Rockfish Program CV Chinook salmon PSC limit by November 15.

Alternatives that did not permit a reallocation of Chinook salmon PSC would not allow unused amounts of the PSC limit to be made available to the directly regulated small entities in the Non-Rockfish Program CV Sector after October 1. Alternatives for reallocating Chinook salmon PSC considered by the Council and NMFS, other than the preferred alternative lacked the flexibility for all of the available PSC limit to be reallocated, or in sufficient amounts to prosecute the Central GOA Rockfish Program fisheries. Without the capability for reallocating Chinook salmon PSC as provided in this proposed rule, directly regulated small entities in the Non-Rockfish Program CV Sector may be subject to more frequent fishery closures.

The proposed action includes establishment of and modifications to salmon retention and discard requirements for pollock and non-pollock trawl vessels that would improve the quality of data collected on Chinook salmon PSC. The proposed salmon retention and discard requirements for trawl vessels would not be expected to adversely affect the small entities regulated by this action because they clarify existing regulatory requirements.

No new recordkeeping and reporting requirements have been identified for this action.

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

#### Tribal Consultation

Executive Order (E.O.) 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law No. 108–199 (188 Stat. 452), as amended by section 518 of Public Law No. 109–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations.

NMFS is obligated to consult and coordinate with federally recognized tribal governments and Alaska Native Claims Settlement Act regional and village corporations on a government-to-government basis pursuant to E.O. 13175, which establishes several requirements for NMFS, including 1) to provide regular and meaningful consultation and collaboration with Indian tribal governments and Alaska Native corporations in the



development of Federal regulatory practices that significantly or uniquely affect their communities, 2) to reduce the imposition of unfunded mandates on Indian tribal governments, and 3) to streamline the applications process for and increase the availability of waivers to Indian tribal governments. This Executive Order requires Federal agencies to have an effective process to involve and consult with representatives of Indian tribal governments in developing regulatory policies and prohibits regulations that impose substantial, direct compliance costs on Indian tribal communities.

Due to the expedited time frame of this action, NMFS will mail letters to all Alaska tribal governments, Alaska Native corporations, and related organizations when the Notice of Availability for Amendment 97 is published in the Federal Register to notify them of the opportunity to comment or request a consultation on this action.

Section 5(b)(2)(B) of E.O. 13175 requires NMFS to prepare a tribal summary impact statement as part of the final rule. This statement must contain 1) a description of the extent of the agency's prior consultation with tribal officials, 2) a summary of the nature of their concerns, 3) the agency's position supporting the need to issue the regulation, and 4) a statement of the extent to which the concerns of tribal officials have been met. If the Secretary of Commerce approves this proposed action, a tribal impact summary statement that summarizes and responds to issues raised on the proposed action—and describes the extent to which the concerns of tribal officials have been met—will be included in the final rule.

#### Collection-of-Information Requirements

This proposed rule contains references to collection-of-information requirements that have been reviewed and approved by the Office of Management and Budget (OMB)

under the Paperwork Reduction Act (PRA). The collections are listed below by OMB control number.

OMB 0648-0316

The Alaska PSC Program is mentioned in this proposed rule; however, the public reporting burden for this collection-of-information is not directly affected by this proposed rule.

OMB 0648-0515

The Alaska Interagency Electronic Report System is mentioned in this proposed rule; however, the public reporting burden for this collection-of-information is not directly affected by this proposed rule.

Send comments on these or any other aspects of the collection of information to NMFS at the ADDRESSES above, and by e-mail to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or fax to 202-395-7285. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 18, 2014.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

**PART 679-- FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 et seq.; 1801 et seq.; 3631 et seq.; and Pub. L. 108–447.

2. In § 679.7, revise paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

\* \* \* \* \*

(b) \* \* \*

(8) Prohibitions specific to salmon discard in the Western and Central Reporting Areas of the GOA directed fisheries for groundfish. Fail to comply with any requirements of §§ 679.21(h) and 679.21(i).

\* \* \* \* \*

3. In § 679.21,

a. Revise paragraphs (b)(2)(ii), (h) heading, and (h)(1), (4), and (5); and

b. Add paragraph (i) to read as follows:

§ 679.21 Prohibited species bycatch management.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraphs (c), (h), or (i) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

\* \* \* \* \*

(h) GOA Chinook Salmon PSC Management for pollock fisheries—(1)

Applicability. Regulations in this paragraph apply to vessels directed fishing for pollock with trawl gear in the Western and Central reporting areas of the GOA and processors receiving deliveries from these vessels.

\* \* \* \* \*

(4) Salmon retention. (i) The operator of a vessel, including but not limited to a catcher vessel or tender, must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and the manager of a shoreside processor or SFP receiving pollock deliveries must retain all salmon until:

(A) The manager of a shoreside processor or SFP has accurately recorded the number of salmon by species in the eLandings groundfish landing report; and

(B) If an observer is present, the observer is provided the opportunity to count the number of salmon and to collect any scientific data or biological samples from the salmon.

(5) Salmon discard. Except for salmon under the PSD program at § 679.26, all salmon must be discarded after the requirements at paragraph (h)(4)(ii) of this section have been met.

\* \* \* \* \*

(i) GOA Chinook Salmon PSC Management for non-pollock trawl fisheries--(1)

Applicability. Regulations in this paragraph apply to vessels directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central

reporting areas of the GOA and processors receiving deliveries of groundfish, other than pollock, from catcher vessels.

(2) Non-pollock trawl sectors. The sectors identified in paragraph (i) of this section are:

(i) Rockfish Program catcher vessel Sector. For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(B) of this section, the Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector;

(ii) Trawl catcher/processor Sector. For the purpose of accounting for the Chinook salmon PSC limits at paragraphs (i)(3)(i)(A) and (i)(3)(ii) of this section, the Trawl catcher/processor Sector is any catcher processor vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA reporting areas and processing that groundfish at sea; and

(iii) Non-Rockfish Program catcher vessel Sector. For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(C) of this section, the Non-Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

(3) GOA non-pollock trawl Chinook salmon PSC limits. (i) NMFS establishes annual Chinook salmon PSC limits in the Central and Western reporting areas of the GOA for the sectors defined in paragraph (i)(2) of this section as follows:

For the following sectors defined at § 679.21(i)(2)...	The total Chinook salmon PSC limit in each calendar year is...	Unless, the use of the Chinook salmon PSC limit for that sector in a calendar year does not exceed...	If so, in the following calendar year, the Chinook salmon PSC limit for that sector will be...
(A) Trawl catcher/processor sector	3,600	3,120	4,080
(B) Rockfish Program catcher vessel sector	1,200	N/A	
(C) Non-Rockfish Program catcher vessel sector	2,700	2,340	3,060

(ii) For the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii):

(A) NMFS establishes a seasonal limit within the sector's annual Chinook salmon PSC limit that is available to the sector prior to June 1. If the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of 3,600 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,376 Chinook salmon. If the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of 4,080 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,693 Chinook salmon.

(B) The amount of Chinook salmon PSC available to the Trawl catcher/processor Sector defined at § 679.21(i)(2) on June 1 through the remainder of the calendar year will be the annual Chinook salmon PSC limit specified for the Trawl catcher/processor Sector minus the number of Chinook salmon used by that sector prior to June 1.

(4) Rockfish Program catcher vessel Sector reallocation of Chinook salmon PSC.

(i) If, on October 1 of each year, the Regional Administrator determines that more than 150 Chinook salmon are available in the Rockfish Program catcher vessel Sector Chinook PSC limit specified at paragraph (i)(3)(i)(B) of this section, the Regional Administrator will reallocate all Chinook salmon PSC available to the Rockfish Program catcher vessel Sector except for 150 Chinook salmon to the Non-Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(ii) On November 15 of each year, the Regional Administrator will reallocate all of the remaining Chinook salmon available in the Rockfish Program catcher vessel Sector Chinook PSC limit specified at paragraph (i)(3)(i)(B) of this section to the Non-Rockfish Program catcher vessel Sector Chinook PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(5) Salmon retention. (i) The operator of a catcher vessel or tender must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and manager of a shoreside processor or SFP receiving non-pollock fishery deliveries must retain all salmon until the number of salmon by species has been accurately recorded in the eLandings groundfish landing report.

(iii) The operator of a catcher/processor must retain all salmon until an observer is provided the opportunity to collect scientific data or biological samples, and the number of salmon by species has been accurately recorded in the eLandings At-sea production report.



(6) Salmon discard. Except for salmon under the PSD program defined at §679.26, all salmon must be discarded after the requirements at paragraph (i)(5)(ii) or (iii) of this section have been met.

(7) Chinook salmon PSC closures in non-pollock trawl gear fisheries. If, during the fishing year, the Regional Administrator determines that:

(i) Vessels in a sector defined at § 679.21(i)(2) will catch the applicable Chinook salmon PSC limit specified at paragraph (i)(3)(i) of this section for that sector, NMFS will publish notification in the Federal Register closing directed fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for that sector; or

(ii) Vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will catch the seasonal Chinook salmon PSC limit specified under paragraph (i)(3)(ii)(A) of this section prior to June 1, NMFS will publish notification in the Federal Register closing directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for all vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) until June 1. Directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will reopen on June 1 with the Chinook salmon PSC limit determined under paragraph (i)(3)(ii)(B) of this section unless NMFS determines that the amount of Chinook salmon PSC available to the sector is insufficient to allow the sector to fish and not exceed its annual Chinook salmon PSC limit.

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